

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  OFFICE OF CONSUMER ADVOCATE,  Complainant,  vs.  IDT AMERICA CORP.,  Respondent.	DOCKET NO. FCU-04-20
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**ORDER DOCKETING FOR FORMAL PROCEEDING  
AND REQUESTING RESPONSE**

(Issued June 21, 2004)

On May 12, 2004, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to consider a civil penalty pursuant to Iowa Code § 476.103 (2003), asking that the Board review the proposed resolution in C-04-92, involving IDT America Corp. (IDT), and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 476.103(4)"a." Based upon the record assembled in the informal complaint proceedings (which are a part of the record in this proceeding pursuant to 199 IAC 6.7), it appears the events to date can be summarized as follows:

On April 1, 2004, Nichola Nihsen filed a complaint with the Board alleging that her long distance service was changed from Qwest Corporation to IDT without her authorization. Board staff identified the matter as C-04-92 and, pursuant to Board

rules, on April 12, 2004, forwarded the complaint to IDT for response within ten days. IDT did not respond to the complaint within the ten-day time limit.

On April 30, 2004, Board staff issued a proposed resolution describing these events and finding by default that IDT had violated the Board's rules. The proposed resolution directed IDT to fully credit all toll charges to Ms. Nihsen's account and to close the account. The proposed resolution also indicated that IDT was responsible for any PIC change charges Ms. Nihsen may have incurred.

On May 6, 2004, IDT responded to Ms. Nihsen's complaint with a letter to Board staff indicating that IDT's investigation revealed that Ms. Nihsen had subscribed to IDT's long distance service in 2002 and that any charges to Ms. Nihsen were the result of this previous account being reactivated. IDT also indicated that it had credited \$33.87 to Ms. Nihsen and closed her account.

In its May 12, 2004, petition, Consumer Advocate asserts that a civil penalty should be imposed against IDT to deter future slamming violations. Consumer Advocate requests that the Board docket this complaint for a formal proceeding. IDT has not responded to Consumer Advocate's petition.

The Board has reviewed the record to date and finds that there is sufficient information to warrant further investigation in this matter. The Board will delay establishing a procedural schedule until July 12, 2004, and allow IDT an opportunity to respond to the allegations raised in Consumer Advocate's petition.

**IT IS THEREFORE ORDERED:**

1. The "Petition for Proceeding to Consider Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on May 12, 2004, is granted and docketed for formal proceeding.

2. IDT America Corp. is directed to file a response to Consumer Advocate's petition on or before July 12, 2004.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 21<sup>st</sup> day of June, 2004.